IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10319 of 1999
With
SPECIAL CIVIL APPLICATION No. 10476 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SABIR PLYOOD & 20 - Petitioner(s)

Versus

DIRECTOR OF MUNICIPALITIES & 2 - Respondent(s)

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Appearance :

SCA No.10319/99

MR HARESH N JOSHI for Petitioner(s) : 1 - 21.
MR SIRAJ GORI, AGP for Respondent(s) : 1 - 2
MR HJ NANAVATI for Respondent(s) : 3,

SCA No.10476/99

MR HARESH N JOSHI for Petitioner(s).
MS FALGUNI PATEL, AGP for Respondent(s) : 1 - 2
MR HJ NANAVATI for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 22/11/2005

ORAL JUDGMENT

In these petitions, the petitioners have challenged the order dated 17th January 1998 passed by the Collector, Surendranagar, by which the Collector in exercise of powers under section 258 of the Gujarat Municipalities Act was pleased to permanently prohibit the implementation of resolution No.11 passed in the meeting held on 9th March 1996 by the Executive Committee of the Dudhrej Municiplaity.

2. The petitioners in these petitions are tenants of Dudhrej Municipality occupying certain shops and other premises on rent. Earlier, the Administrator of the Municipality had proposed manifold increase in the rent payable by the petitioners. The petitioners had, therefore, represented against such increase in the rent. When the elected body of the Municipality was constituted, resolutions were passed giving relief to the petitioners from the revised rent. Such resolutions were taken in sou motu revision by the Collector and by the impugned order dated 17.1.98, execution thereof was permanently prohibited.

3. Learned advocate Shri Nanavati appearing for respondent No.3 Municipality places on record a

subsequent resolution dated 16th December 2003 by which the Municipality has resolved to adopt a uniform standard for rate revision of rent payable by the tenants of various properties belonging to the Municipality. The rate revision is made effective with retrospective application from the year 1994. He, therefore, submits that the issues arising in the present petition need not be decided since the rent payable by the petitioners for the entire period as well as to be paid prospectively is provided for in the said resolution No.128 dated 16.12.2003.

4. Learned advocate Mrs.Pahwa appearing for the petitioners submitted that so far the Municipality has not implemented the said resolution. Learned AGP Shri Gori submitted that though the controversy involved in these petitions may have lost its significance in view of the subsequent resolution passed by the Municipality, it is always open for the State Government to examine its legality in accordance with law.

5. Learned advocate Mrs.Pahwa points out that in the resolution dated 16.12.2003, name of petitioner No.6 in Special Civil Application No.10476 of 1999 has not been mentioned. Learned advocate Shri Nanavati submits that

the resolution specifies the policy decision of the Nagarpalika and the Nagarpalika will take into consideration the case of the said petitioner also while regulating the rate at which she should pay the revised rate of rent.

6. In view of the above development, I find that it is not necessary to decide the legality of the order under challenge. When the Municipality itself has provided for a fresh resolution governing the rate revision which would also cover the period under dispute, it is no longer necessary to decide the legality of the order passed by the Collector.

7. In view of the above discussion, the petitions are disposed of. Rule is discharged with no order as to costs with liberty to apply in case of difficulty.

(Akil Kureshi, J.)

(vjn)